

APPEAL NO. 021585  
FILED JULY 24, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 23, 2002. The hearing officer determined that the appellant (carrier herein) was entitled to reduction of the respondent's (claimant herein) impairment income benefits (IIBs) and/or supplemental income benefits (SIBs) in the amount of 8.33% based on contribution from earlier compensable injury. The carrier appeals, contending that the hearing officer erred in determining the amount of contribution. The carrier contends that the evidence showed that the carrier was entitled to contribution in an amount of at least 50%. The claimant responds that the decision of the hearing officer was supported by the evidence and should be affirmed. Neither party appealed the determination of the hearing officer that the carrier was entitled to some contribution. The only issue before us on appeal is whether the hearing officer's finding of 8.33% contribution is supportable.

DECISION

Affirmed.

Section 408.084 provides as follows in relevant part:

- (a) At the request of the insurance carrier, the [Texas Workers' Compensation Commission (Commission)] may order that [IIBs] and [SIBs] be reduced in a proportion equal to the proportion of a documented impairment that resulted from earlier compensable injuries.
- (b) The [C]ommission shall consider the cumulative impact of the compensable injuries on the employee's overall impairment in determining a reduction under this section.

The hearing officer found, as a matter of fact, that considering the cumulative impact, the carrier was entitled to a 8.33% contribution. The hearing officer explained in some detail how the medical evidence supported this amount of contribution. The carrier argues that the hearing officer failed to give proper weight to the opinion of its medical expert regarding contribution. Conflicting evidence was presented regarding the proper amount of contribution. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the

evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **PROTECTIVE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**VAN WAGNER COMPANY  
1100 JUPITER ROAD, SUITE 121  
PLANO, TEXAS 75074.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge